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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,154	03/29/2004	Mark Steven Infalt	6003-0001	2484

7590

08/18/2005

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EXAMINER
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LEGESSE, NINI F

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 08/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/812,154

Applicant(s)

INFALT, MARK STEVEN

Examiner

Nini F. Legesse

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-4, 6-9 and 11-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3, 6-9 and 16-20 is/are allowed.
- 6) ☒ Claim(s) 2, 4, 11-15 and 21-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Applicant's response to the office action of 06/03/05 is acknowledged on 08/04/05. After careful review of the application, the finality of that action is withdrawn.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 2, 4, 15, 21, 24, and 25-27** are rejected under 35 U.S.C. 102(b) as being anticipated by McAuliffe (US Patent No. 4,913,419).

**Regarding claim 2**, McAuliffe discloses an adjustable stand comprising a base (combination 11 and 34), a first arm having a proximal end and a distal end (combination of 36 and the middle inserted element as shown in Fig. 6), a second arm having a proximal end and a distal end (21), a first pad connector (14), a swing pad (12) comprising a first attachment spot (the area wherein one of element 22 is located) said first attachment spot being coupled to said first pad connector of said adjustable stand (see Fig. 6), wherein said adjustable stand can be adjusted to move said swing pad into a desired position (see Fig. 6).

**Regarding claim 4**, given the broad interpretation, the multiple holes located on element 11 are considered as a position reference scale.

**Regarding claim 15**, referring to Fig. 6, the lower area wherein element 22 is located is considered as a second attachment spot.

**Regarding claim 21**, the recited adjustable feature of the arms is disclosed in column 4, lines 8+.

**Regarding claims 24-27**, for the rotational capabilities of the first and second axis please see Fig. 6 and column 4, lines 8+.

**Claims 2, 4, and 12** are rejected under 35 U.S.C. 102(b) as being anticipated by Wiseman et al. (US Patent No. 5,642,880).

**Regarding claim 2**, Wiseman discloses an adjustable stand comprising a base (combination of 10 and 33), a first arm having a proximal end and a distal end (combination of 34 and the lower end of 36), a second arm having a proximal end and a distal end (the upper end of 22), a first pad connector (the area between top end of 36 and 44), a swing pad (44) comprising a first attachment spot (any area wherein 44 and end of 34 meet) said first attachment spot being coupled to said first pad connector of said adjustable stand (see Fig. 4), wherein said adjustable stand can be adjusted to move said swing pad into a desired position (see Fig. 4-5).

**Regarding claim 4**, indicia 14 is considered as a position indicator.

**Regarding claim 12**, second arm (36) is capable of being rotateable about the base.

**Claims 2, 11, 12, 13, 15, 22, 24, and 25** are rejected under 35 U.S.C. 102(b) as being anticipated by Meeker et al. (US Patent No. 4,815,743).

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**Regarding claim 2**, Meeker discloses an adjustable stand comprising a base (132), a first arm having a proximal end and a distal end (combination of 130 and 136), a second arm having a proximal end and a distal end (134), a first pad connector (118), a swing pad (116) comprising a first attachment spot (the area where 116 and 118 meet) said first attachment spot being coupled to said first pad connector of said adjustable stand (see Figs. 4 and 7), wherein said adjustable stand can be adjusted to move said swing pad into a desired position (element 142 and 144 are used for adjustment).

**Regarding claim 11**, second arm has adjustment element 144.

**Regarding claim 12**, second arm (134) is capable of being rotateable about the base.

**Regarding claims 13, 22, 24 and 25**, swing pad (116) is rotateable about said second arm (see column 4 lines 66+) and second arm is rotateable about a first axis and second axis (see column 4, lines 57+ and Figs. 4-6).

**Regarding claim 15**, any section of the area where 116 and 118 meet can be considered as a second attachment spot.

**Claims 2, 11, 12, 13, 15, 22, 24, 25 and 27** are rejected under 35 U.S.C. 102(b) as being anticipated by Uebele, Jr. (US Patent No. 5,421,579).

**Regarding claim 2**, Uebele discloses an adjustable stand comprising a base (12 and 23), a first arm having a proximal end and a distal end (20), a second arm having a proximal end and a distal end (34), a first pad connector (38), a swing pad (30) comprising a first attachment spot (any area where 30 and 34 meet) said first attachment spot being coupled to said first pad connector of said adjustable stand (see

Figs. 10-12), wherein said adjustable stand can be adjusted to move said swing pad into a desired position (see column 4, lines 47+).

**Regarding claim 11**, second arm has adjustment element 35 and 36.

**Regarding claim 12**, second arm (34) is capable of being rotateable about the base.

**Regarding claims 13, 22, 24, 25, and 27**, swing pad (30) is rotateable about said second arm and second arm is rotateable about a first axis and second axis (Figs. 10-12).

**Regarding claim 15**, any section of the area where 34 and 30 meet can be considered as a second attachment spot.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 21, 23 and 26** are rejected under 35 U.S.C. 103(a) as being unpatentable over Uebele in view of Stewart (US Patent No. 3,698,721).

Uebele teaches that there is arms have pivotally connected (see column 4, lines 50+) but he fails to teach the use of adjustable elbow and adjustable connector as recited in the claims. However, the use of multiple adjustable elbows with legs is not new in the golf art. Stewart is a training aid reference that teaches the use of multiple connectors/elbows (see 24 and 25 in Fig. 2). Thus, it would have been obvious to one of

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ordinary skill in the art at the time the invention was made to modify the Uebele device to have adjustable elbows or connectors as taught by Stewart in order to make the device more adjustable and to make it more compact for storage.

***Allowable Subject Matter***

**Claims 3, 6, 7, 8, 9, and 16-20** are allowed.

***Response to Arguments***

Please note that after careful review of the application, the finality of that action is withdrawn.

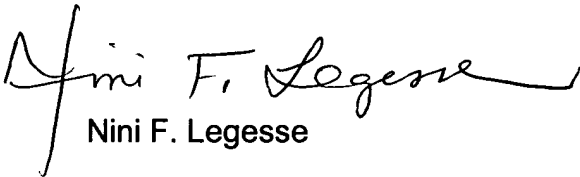
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nini F. Legesse whose telephone number is (571) 272-4412. The examiner can normally be reached on 9 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571) 272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Nini F. Legesse

08/16/05